REMARKS

Claims 1 through 20 are currently pending in the application.

This amendment is in response to the Office Action of February 27, 2004.

Information Disclosure Statement(s)

Applicants note the filing of two Information Disclosure Statements on September 15, 2003 and February 22, 2004 and note that copies of the PTO-1449s were not returned with the outstanding Office Action. Applicants respectfully request that the information cited on the PTO-1449 be made of record herein.

Preliminary Amendment

Applicants note the filing of a Preliminary Amendment on November 7, 2003, which filing was not acknowledged in the outstanding Office Action. Should the Preliminary Amendment have failed to have been entered in the Office file, Applicants will provide a true copy to the Examiner.

35 U.S.C. § 101 Double Patenting Rejection

Claims 1 through 20 are rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1 through 10 of prior United States Patent 6,632,736 (hereinafter referred to as the '736 patent). Applicants respectfully traverse this rejection, as hereinafter set forth.

Applicants assert that a reliable test for statutory double patenting under 35 U.S.C. § 101 is whether a claim in the application can be literally infringed without literally infringing a corresponding claim in the patent. Is there an embodiment of the invention that falls within the scope of one claim, but not the other? If there is such an embodiment of the claimed invention, then identical subject matter is not defined by both claims and statutory double patenting under 35 U.S.C. § 101 does not exist. *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

After carefully considering the rejections and the Examiner's comments, Applicants have amended the claimed inventions of the embodiments of independent claims 1 and 11 of the

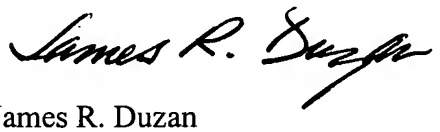
present application to clearly distinguish from the embodiment of the invention set forth in corresponding independent claim 1 of the `736 patent.

Applicants assert that no statutory double patenting exists between the embodiments of the presently claimed inventions of presently amended independent claims 1 and 11 of the present application and the embodiment of the invention set forth in corresponding independent claim 1of the `736 patent because different embodiments of the inventions are being claimed in the present application and the `736 patent. For instance, the embodiments of the presently claimed inventions of presently amended independent claims 1 and 11 of the present application set forth as an element of the inventions calling for "depositing an amorphous titanium carbonitride film having substantially no crystalline titanium therein, the amorphous titanium carbonitride film lining the sidewall of the contact opening and overlaying the titanium metal layer covering the portion of the silicon region exposed by the contact opening using a vapor deposition process when the wafer is located in a chamber" whereas the embodiment of the invention set forth in corresponding claim 1 of the `736 patent does not. Therefore, statutory double patenting under 35 U.S.C. § 101 does not exist between the embodiments of the inventions set forth in presently amended independent claims 1 and 11 of the present application and the embodiment of the invention set forth in corresponding claim 1 of the `736 patent. Accordingly, presently amended independent claims 1 and 11 of the present application are allowable as well as dependent claims 2 through 10 and 12 through 20 therefrom.

Applicants submit that claims 1 through 20 are clearly allowable for the reasons set forth herein.

Applicants request the allowance of claims 1 through 20 and the case passed for issue.

Respectfully submitted,



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